

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-1784

In Re: CAROL L. PIZZUTO,

Petitioner.

On Petition for Writ of Mandamus.
(5:10-cv-00017-FPS)

Submitted: September 30, 2010

Decided: October 7, 2010

Before NIEMEYER, AGEE, and KEENAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Carol L. Pizzuto, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Carol L. Pizzuto petitions for a writ of mandamus, seeking to compel the United States Attorney's Office for the Northern District of West Virginia and the Federal Bureau of Investigation to investigate her allegations that her son was kidnapped and to prosecute the alleged perpetrators. We conclude that Pizzuto is not entitled to the relief she seeks.

Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances. Kerr v. U.S. Dist. Court, 426 U.S. 394, 402 (1976); United States v. Moussaoui, 333 F.3d 509, 516-17 (4th Cir. 2003). Further, mandamus relief is available only when the petitioner has a clear right to the relief sought. In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). The relief sought by Pizzuto is not available by way of mandamus. See Wayte v. United States, 470 U.S. 598, 607 (1985) ("[T]he Government retains broad discretion as to whom to prosecute.") (internal quotation marks omitted); Linda R.S. v. Richard D., 410 U.S. 614, 619 (1973) ("[P]rivate citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.").

Accordingly, although we grant leave to proceed in forma pauperis, we deny the petition for writ of mandamus. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED